IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4043 OF 2007
DATE OF DECISION: 16-03-2007

Kailash Chand son of Sh.Man Mohan Yadav, resident of Village Majra Ahir, Post Office Hasora, Tehsil Bansur, District Alwar (Rajasthan).

.....PETITIONER

VERSUS

1. Punjab and Haryana High Court at Chandigarh through its Registrar.
2. The District and Sessions Judge, Narnaul.

.....RESPONDENTS

CORAM:- **HON'BLE MR.JUSTICE ASHUTOSH MOHUNTA**
HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.Rakesh Nagpal, Advocate
for the petitioner.

R S MADAN, J.

By filing the present Civil Writ Petition under Articles 226/227 of the Constitution of India, the petitioner has prayed for the issuance of a writ in the nature of certiorari/mandamus for quashing the order of his dismissal from service dated 15-7-2005 (Annexure P3) and order dated 17-9-2006 (Annexure P5) passed by the learned Single Judge

vide which the appeal of the petitioner was dismissed on administrative side with direction to the respondents to re-instate the petitioner with all consequential benefits.

The claim of the petitioner is that he was appointed as Fine Clerk in Sessions Division, Gurgaon on 24-11-1987 and later on he was transferred to Narnaul.

He was charge-sheeted for his willful absence from duty in the Court of Sh.KR Goyal, learned Additional District and Sessions Judge, Rewari on 9-12-2003 and again from 27-1-2004 to 30-1-2004, on 6-3-2004 and then from 13-3-2004 to 27-3-2004. He was found absent from duty in the Court of Shri RC Godara, the then Additional District & Sessions Judge, Narnaul from 24-5-2004 to 31-5-2004. He was also found absent from duty in the Court of Sh.Narender Kumar, Additional District & Sessions Judge, Narnaul from 1-6-2004 to 4-6-2004 and from 5-7-2004 to 30-7-2004. He again absented from duty from 9-8-2004 to 21-9-2004. He was found absent from duty from 2-11-2004 onwards to 5-11-2004 without any intimation. An application for earned leave from 4-11-2004 to 5-11-2004 was received in the office on 6-11-2004. He remained wilfully absent from duty from 2-11-2004 to 4-1-2005 when he was placed under suspension.

The matter was referred to the Enquiry Officer, who furnished his report to the District and Sessions Judge, Narnaul about the willful absence of the petitioner from duty on several days as detailed above. After going through the report of the Enquiry Officer, the learned District & Sessions Judge, Narnaul found favour with the report and issued a show

cause notice to the petitioner as to why the punishment of dismissal from service be not imposed upon him.

Reply to the said show cause notice was furnished by the petitioner.

After hearing the learned counsel for the petitioner, the learned District & Sessions Judge, Narnaul dismissed the petitioner from service on 15-7-2005. The petitioner preferred an appeal before the Administrative Judge of this Court, who vide his order dated 7-9-2006 endorsed the order of the Punishing Authority by observing that indiscipline cannot be tolerated and it is not a fit case where leniency is to be shown in favour of the petitioner.

Aggrieved by the impugned orders, the petitioner through the present writ petition has challenged these orders.

The learned counsel for the petitioner has contended that the punishment of dismissal from service awarded to the petitioner is not incommensurate with the offence for which the petitioner has been charged, therefore, the petitioner threw himself at the mercy of the Court for re-instatment in service.

We have gone through the Enquiry Report, charge-sheet as well as the reasoning adopted by the Enquiry Officer further endorsed by the learned District & Sessions Judge, Narnaul as well as by the Administrative Judge and do not find any infirmity in the orders passed by the competent Authority and the Appellate Authority. The facts and circumstances show that the petitioner has been found willfully absent from duty for the period mentioned above, which was a subject matter of enquiry

before the Enquiry Officer.

No merit. Dismissed.

(R S MADAN)
JUDGE

(ASHUTOSH MOHUNTA)
JUDGE

March 16 , 2007
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